

Garnishment

Are you being garnished?

A Writ of Garnishment is a court order allowing the holder of a judgment to collect a debt by making a claim on money owed to the debtor that is in the possession of a third person (called the “garnishee”). The most common types of garnishment writs are claims on wages owed to the debtor (sometimes called garnishments against “periodic payments”) or claims on money held in a bank account (garnishments against “non-periodic payments”).

If your creditor has obtained a money judgment **against** you, the creditor (sometimes called the “plaintiff” or the “judgment creditor”) can obtain from the court a **Writ of Garnishment**. Not only can a garnishment writ be issued to collect the court awarded money judgment, but also the costs of collection, interest on the judgment, and the cost of filing and serving the **Writ of Garnishment**.

What is the garnishment process?

After obtaining a judgment against you for money that you owe, the plaintiff or judgment creditor can file with the court a **Request and Writ for Garnishment**. After the clerk or judge signs the Writ, a copy will be mailed to the garnishee (your bank, employer, or whoever may owe you money or other property). Once the garnishee receives a copy of the Writ, the garnishee has **7 days** to mail a copy of the Writ to you.

The garnishee is also required to fill out a form called a **Garnishee Disclosure** (Form MC 14) and return it to the court within **14 days**. This form provides the court and the judgment creditor with information about how much money, if any, is available to satisfy the judgment against you.

Can I object to the garnishment process?

You (the defendant/judgment debtor) have **14 days** after receiving a copy of the Writ of Garnishment to file objections. You may also be able to obtain an order for **Installment payments**, which will put the brakes on the garnishment process, at least with respect to garnishments of wages or other periodic payments that a garnishee may owe you.

Legitimate objections to the Writ of Garnishment include:

- The property is exempt or otherwise protected by law from being garnished;
- The property belongs to someone other than you;
- You have filed bankruptcy;
- An installment payment order has already been entered by the Court (with respect to garnishments of periodic payments);
- You have already paid the judgment;
- There is another garnishment against the same property or payment;
- The total amount being garnished by a higher priority writ exceeds the amount allowed by law;
- There is something else wrong in the garnishment paperwork (e.g., the court clerk or judge didn’t sign it), or the manner in which the judgment creditor served it etc.

As noted above, you may be able to suspend the garnishment process as it pertains to your wages and other periodic payments by obtaining an order allowing you to make **Installment Payments** to the judgment creditor. A **Motion for Installment Payments (MC 15)** can be made at any time and allows the debtor to make a reasonable and voluntary effort to make affordable payments.

Is any income protected by law?

Some property is protected by law against collection and is considered **exempt** from garnishment and execution. This includes income from social security or worker’s compensation. Other pension funds, especially those paid to former state or federal employees, may also be exempt from garnishment.

What is the maximum amount that can be garnished?

Federal law provides that a garnishment against wages must leave the person with the greater of 75% of disposable income or minimum wage for a standard workweek.

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